

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

MICROSTRATEGY SERVICES CORP.,)	
)	
)	
Plaintiff,)	
)	
v.)	1:14cv1244 (JCC/IDD)
)	
OPENRISK, LLC,)	
)	
)	
Defendant.)	

O R D E R

This matter is before the Court on the parties' joint Motion to Correct the Minute Entry. [Dkt. 108.] For the following reasons, the Court will deny the motion.

On April 14, 2015 the parties filed a joint motion for extension of time to complete discovery. [Dkt. 103.] The parties requested a five-day extension to the April 10, 2015 discovery deadline to take the depositions of the parties' expert witnesses. (Mem. in Supp. [Dkt. 103] at 1.) The parties also requested that the Court revise the schedule for pre-trial filings as followed: exhibit and witness lists, deadline to exchange exhibits, Rule 26(a)(3) disclosures due on May 8, 2015; deposition designations due three weeks before trial; and deposition counter-designations and written stipulation of uncontested facts due two weeks before trial. (*Id.* at 2-3.) On

April 15, 2015 Magistrate Judge Ivan D. Davis granted the motion in part and denied the motion in part. (4/15/15 Order [Dkt. 104].) Judge Davis extended the time for expert discovery to April 15, 2015 and extended the deadline for exhibit and witness lists, Rule 26(a)(3) disclosures, a written stipulation of uncontested facts, and exchange of exhibits to April 22, 2015. (*Id.*) He denied the motion in all other respects. (*Id.*)

The parties appeared for the final pre-trial conference on April 16. [Dkt. 105.] During the pre-trial conference, the following exchange occurred:

THE COURT: You have some open stuff here about depositions to take. What do you want to do about filing your exhibits and witness list?

MS. ZECCA: We got an order from Judge Davis about an hour ago that says that should all be filed a week from yesterday. But what we had - we had submitted a - a lengthier proposed schedule to this Court, having the exhibit list, the deadlines. And the witness list and the Rule 26(a)(3) disclosures due May 8th, deposition designations due three weeks before trial, and counter-designations and written stipulations of uncontested facts due two weeks before trial. And I think that would all work with the -

THE COURT: Okay. What about objections to you?

MS. ZECCA: Ten days for objections after May 8th, ten -

THE COURT: Agree?

MS. MARCUS: Agree, Your Honor.

THE COURT: Okay. Ten days. Okay.

(Hr'g Tr. at 4-5.)

The minute entry for the final pre-trial conference states that the witness and exhibit lists were due on April 22, 2015. [Dkt. 105.] Both parties now move for the Court to amend the minute entry to correct what they believe is a "clerical error in transferring the Court's oral ruling to the written minute entry." (Joint Mot. at 2.)

The Court will deny the joint motion. The minute entry is not a "clerical error." Judge Davis's order denied the parties' request to file witness and exhibit lists on May 8 and instead set the deadline for April 22.¹ This order was and is binding on the parties. It was disingenuous (at best) for the parties to appear before this Court on April 16 and obliquely urge the Court to reconsider Judge Davis's judicious deadlines. Accordingly, it is hereby ORDERED:

¹ Contrary to the representations made in open court, there was no "lengthier proposed schedule [submitted] to this Court." The only schedule submitted was that contained in the joint motion before Judge Davis. [Dkt. 103.]

- (1) The Joint Motion to Amend/Correct the Minute Entry [Dkt. 108] is DENIED;
- (2) The parties shall file their witness and exhibit lists and any statements of uncontested facts by May 8, 2015;
- (3) Pursuant to Local Civil Rule 83.6, counsel for the parties shall contact the chambers of the Honorable U.S. Magistrate Judge Davis within ten (10) days from the date of this Order to schedule a settlement conference. The settlement conference shall be held at least two weeks before trial, which is currently scheduled for June 22, 2015;
- (4) The Clerk of Court shall forward a copy of this Order to all counsel of record.

IT IS SO ORDERED.

April 30, 2015
Alexandria, Virginia

/s/
James C. Cacheris
UNITED STATES DISTRICT COURT JUDGE